

Message Text

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TO AMEMBASSY TEGUCIGALPA IMMEDIATE

C O N F I D E N T I A L STATE 213385

E.O. 11652: GDS

TAGS: EFIN, BDIS, HO

SUBJECT: BRIEFING OF ARIZONA CONGRESSIONAL STAFFERS ON DEL
WEBB CLAIM

REF: A) TEGUCIGALPA 3713; B) TEGUCIGALPA 3709; C) STATE
196505

1. DEPARTMENT OFFICIALS BRIEFED A GROUP OF SIX STAFF MEM-
BERS OF THE ARIZONA CONGRESSIONAL DELEGATION ON AUGUST 8.
A MEMORANDUM OF CONVERSATION WITH THE NAMES OF THE CON-
GRESSIONAL STAFF MEMBERS AND DEPARTMENT OFFICIALS PARTI-
CIPATING IS BEING POUCHED TO THE EMBASSY.

2. THE HISTORY OF THE DEL WEBB CASE WAS DISCUSSED, INCLUD-
ING THE LEGAL ARGUMENTS BOTH SIDES HAVE PRESENTED. THE
DISCUSSION THE FOCUSED ON THE EXTENT TO WHICH THE US
COMPANY HAD EXHAUSTED ADMINISTRATIVE AND OTHER LEGAL REME-
DIES, AND THE LIKELY RESULT IF THE COMPANY TOOK ITS CASE
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TO THE HONDURAN COURTS. IT WAS EXPLAINED THAT, UNDER IN-
TERNATIONAL LAW, NO INTERNATIONAL CLAIM CAN BE VALID UN-
LESS THE CLAIMANT HAS EXHAUSTED THE REMEDIES AVAILABLE
UNDER THE LAWS OF THE COUNTRY AGAINST WHOSE GOVERNMENT
THE CLAIM IS BROUGHT. DEL WEBB HAD NOT EXHAUSTED REMEDIES
IN HONDURAS.

3. A QUESTION WAS RAISED AS TO WHETHER THE DEPARTMENT

HAD SEEN THE DOCUMENT IN WHICH DEL WEBB PURPORTEDLY SIGNED A RELEASE, AS REQUIRED IN THE CONTRACT AND MENTIONED IN THE GOH ANALYSIS OF THE WEBB CLAIM (REPORT AND OPINION WRITTEN BY LAGOS). DEPARTMENT OFFICIALS REPLIED IN THE NEGATIVE, BUT INDICATED THAT THE GOH ANALYSIS SEEMED TO INDICATE THAT IRRESPECTIVE OF WHETHER WEBB SIGNED A RELEASE, THE FACT THAT THE COMPANY ACCEPTED FINAL PAYMENT CONSTITUTED RELEASE OF THE GOVERNMENT FROM ALL CLAIMS.

4. A RELATED QUESTION CONCERNED THE DEPARTMENT'S POSITION ON THE CALVO CLAUSE IN THE CONTRACT, WHEREBY DEL WEBB RENOUNCED ITS US DOMICILE AND RIGHT TO DIPLOMATIC REPRESENTATION. WE EXPLAINED THAT THE USG DOES NOT RECOGNIZE SUCH CLAUSES AS BINDING, THAT IT IS OUR POSITION THAT NO PRIVATE PARTY CAN WAIVE THE RIGHT OF THE USG UNDER INTERNATIONAL LAW TO REPRESENT ITS NATIONALS BEFORE A FOREIGN GOVERNMENT SHOULD THERE BE CAUSE TO DO SO.

5. THE CONGRESSIONAL DELEGATION SOUGHT SUGGESTIONS SEEKING SOME SATISFACTORY RESOLUTION TO THE DEL WEBB CLAIM. WE EMPHASIZED THAT THE DEPARTMENT HAD OFFERED ALL APPROPRIATE ASSISTANCE TO THE COMPANY CONSISTENT WITH INTERNATIONAL PRACTICE, HAVING HELPED WEBB OBTAIN INFORMATION CONFIDENTIAL

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ON HONDURAN PROCEDURES AND PLACED COMPANY REPRESENTATIVES IN CONTACT WITH APPROPRIATE GOH OFFICIALS. WE ALSO PASSED ALONG THE INFORMATION RECEIVED FROM JORGE FIDEL DURON, THAT IN SPITE OF THE NEW GOH RULING ON THE WEBB CLAIM, FINANCE MINISTER ZAVALA WAS WILLING TO MEET WITH COMPANY REPRESENTATIVES FOR FURTHER DISCUSSION (TEGUCIGALPA 3709).

6. ON AUGUST 18, DEL WEBB VICE PRESIDENT JOHN BYRNE ADVISED THE DEPARTMENT THAT HE WOULD BE TRAVELING TO TEGUCIGALPA THIS WEEK AND EXPECTED TO MEET WITH MINISTER ZAVALA ON AUGUST 23. HE HAD REQUESTED THE APPOINTMENT BY LETTER TO COMMUNICATIONS AND PUBLIC WORKS MINISTER THERESIN.

7. THE LARGE ATTENDANCE OF CONGRESSIONAL STAFFERS AT THE BRIEFING WAS AN INDICATION OF THE LEVEL OF INTEREST IN THIS CASE ON THE PART OF THE ARIZONA DELEGATION. THE MEETING WAS VERY CORDIAL. MOST OF THOSE IN ATTENDANCE INDICATED SOME INVOLVEMENT WITH OR INTEREST IN THE CLAIM OVER A SEVERAL YEAR PERIOD. CHRISTOPHER

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